

REMARKS

Claims 1-29 are all the claims presently pending in the application. Claims 1, 4-5, 8, 15-18, 20-23, and 26 have been amended to more clearly define the invention. Claims 1, 8, 14, 19 and 24 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Applicant gratefully acknowledges that claims 4 and 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicant respectfully submits that all of the claims are allowable.

Applicant also notes, as will be explained in greater detail below, that the Examiner has failed to further prosecution of the present application by failing to answer the traversals of the previous rejections that were provided by the Amendment that was filed on January 22, 2004.

Indeed, the Examiner fails to even recognize the existence of claims 27-29. The Examiner does not mention claims 27-29 at all in the April 2, 2004 Office Action.

Therefore, since claims 27-29 have not been rejected, Applicant is under the current understanding that claims 27-29 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-3 and 8-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the

admitted prior art in view of the Rasanen reference and in further view of the Pirila reference. Claims 5-6 and 11-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of the Rasanen reference, and further in view of the Chang, et al. reference and yet in even further view of the Pirila reference. Claims 7 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of the Rasanen reference, and further in view of the Pirila reference and in still yet further view of the Valentine, et al. reference. Claims 14-16 and 24-26 continue to stand rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of the Rasanen reference, and further in view of the Manning, et al. reference. Claim 17 continues to stand rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of the Rasanen reference, further in view of the Manning, et al. reference, and in yet further in view of the Chang, et al. reference. Claim 18 continues to stand rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of the Rasanen reference, further in view of the Manning, et al. reference, and further in view of the Valentine, et al. reference. Claims 19 and 21 continue to stand rejected under 35 U.S.C. 102(e) as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference. Claim 20 continues to stand rejected under 35 U.S.C. 102(e) as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further in view of Applicant's admitted prior art. Claim 22 continues to stand rejected under 35 U.S.C. 102(e) as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further in view of the Chang, et al. reference. Claim 23 continues to stand rejected under 35 U.S.C. 102(e) as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further

in view of the Valentine, et al. reference.

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

An exemplary non-limiting, embodiment of the claimed invention as defined, for example by claim 1, is directed to a mobile wireless communication system which includes an information server, a portable terminal, a plurality of wireless communication servers, a switch, and a wireless telephony server. The portable terminal communicates with the information server through a wireless communication line and has a buffer memory which stores information transmitted from the information server. A first of the plurality of wireless communication gateway servers is selected based upon the position of the portable terminal, has a buffer emulator which stores data regarding the buffer memory in the portable terminal, and transmits information from the information server to the portable terminal based upon the data in the buffer emulator. The switch sets the connection between the portable terminal and the first wireless communication gateway server and also sets a connection between the portable terminal and a second of the plurality of wireless communication gateway servers when the first wireless communication gateway server is congested. The wireless telephony server of the first exemplary embodiment informs the plurality of wireless communication gateway servers of the position of the portable terminal.

As mentioned in the previous Amendments, the remarks from which are incorporated herein in their entirety by reference, conventional systems have required the installation of a new

access point into a portable terminal 20 in order to establish communication with the portable terminal 20 and an information server 26.

The present invention may reduce the amount of time required for a portable terminal to access an information server.

In the exemplary embodiment of the present invention, as shown in Fig. 2, the wireless telephony server 8 informs a plurality of wireless communication gateway servers 5A and 5B of the position of the portable terminal 1. In this manner, the servers 5A and 5B may take various actions to reduce the amount of time required for the portable terminal 1 to access an information server 7. For example, a wireless communication gateway server 5A may request the switch 3 to change a connection with the portable terminal 1 based upon the position (page 8, lines 22-27).

II. THE PRIOR ART REJECTIONS

A. Examiner's Failure to Comply with the Requirements of the Manual of Patent Examining Procedure

Before addressing the rejections individually, Applicant submits that the Examiner's Office Action that was issued on April 2, 2004 completely fails to meet the requirements that are very clearly set forth in the Manual of Patent Examining Procedure at, for example, section 707.07(f).

In pertinent part, § 707.07(f) states:

Where the Applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it."

In this instance, while the Examiner appears to have modified the Examiner's rejections of claims 1-3, 5-9, and 11-13, the Examiner has completely failed to answer the substance of the Applicant's traversals regarding the rejections of claims 14-26.

Applicant submits that the Examiner is not furthering prosecution of the present application by ignoring the Applicant's clear traversals of the Examiner's rejections. Applicant respectfully requests that the Examiner comply with the requirements that are clearly set forth in the M.P.E.P. and either answer the substance of the Applicant's traversals of all of the Examiner's rejections OR immediately withdraw the rejections.

B. The Applicant's admitted prior art in view of the Rasanen reference and further in view of the Pirila reference

Regarding claims 1-3 and 8-9, the Examiner alleges that the Rasanen reference would have been combined with the Applicant's admitted prior art (hereinafter "AAPA") and further alleges that the Pirila reference would have been combined with a combination of the Rasanen reference and the AAPA to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different matters and problems.

As explained previously, one of ordinary skill in the art who was concerned with congestion at an access point in a wireless communication gateway server as disclosed by the

AAPA would not have referred to the Rasanen reference because the Rasanen reference does not mention anything at all regarding a wireless communication gateway server let alone, handling congestion at an access point of a wireless communication gateway server.

One of ordinary skill in the art who was concerned with congestion at an access point in a wireless communication gateway server as disclosed by the AAPA or who was concerned with the problem of implementing handoffs between base station cells when it is necessary to reduce the congestion of a base station cell as disclosed by the Rasanen reference would not have referred to the Pirila reference because the Pirila reference is concerned with the completely different and unrelated problem of allowing the user of a mobile station to determine the location of the mobile station. Thus, the references would not have been combined, absent hindsight.

Further, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner.

The Examiner continues to allege that the AAPA does not mention a switching apparatus for setting another connection between the portable terminal and a second wireless communication gateway when the communication between the portable terminal and the first wireless communication gateway server congests, then alleges that the Rasanen reference discloses such a feature and finally alleges that it would have been obvious to one having ordinary skill in the art to provide the switching apparatus that is allegedly disclosed by the Rasanen reference “so that the system can reduce a time required for a portable terminal to access information server and reduce connection time.”

In the previously filed Amendment, the Applicant pointed out that there are at least three

things wrong with the Examiner's proposed motivation to modify. Those points are still valid and Applicant hereby incorporates by reference that discussion herein in its entirety. In the currently outstanding Office Action, the Examiner continues to demonstrate confusion between a base station, a wireless communication gateway server and a switching apparatus. Applicant respectfully requests that the Examiner review and respond to the Applicant's traversal regarding this point.

In summary of that traversal, firstly, contrary to the Examiner's allegation that the AAPA does not teach or suggest a switching apparatus, as is clearly shown in Fig 1, the AAPA already includes a switching apparatus for setting another connection between the portable terminal and a second wireless communication gateway when the communication between the portable terminal and the first wireless communication gateway server congests.

Secondly, contrary to the Examiner's allegation, the Rasanen reference does not teach or suggest a switching apparatus that sets another connection between the portable terminal and a second wireless communication gateway when the communication between the portable terminal and the first wireless communication gateway server congests.

Clearly, as explained by the present specification, a base station is not a wireless communication gateway server.

Therefore, the Rasanen reference does not teach or suggest a switching apparatus for setting another connection between the portable terminal and a second wireless communication gateway when the communication between the portable terminal and the first wireless communication gateway server congests.

Thirdly, the Examiner alleges that it would have been obvious to make the Examiner's alleged modification "so that the system can reduce a time required for a portable terminal to access information server (sic) and reduce connection time." However, not only does the Examiner's propose modification not provide the advantages that the Examiner alleges, but the Examiner does not cite any source for the alleged motivation from the applied references.

Further, Applicant has previously pointed out in the remarks of the Amendment that was filed on January 22, 2004, that he Examiner has failed to provide a prima facie case of obviousness for failing to provide a source for the Examiner's alleged reason or motivation for such an alleged modification (see M.P.E.P. § 2143).

Indeed, as explained previously, the Examiner appears to have improperly relied upon Applicant's own disclosure as the source of motivation. Thus, the Examiner has failed to provide a *prima facie* case of obviousness. That traversal is incorporated in its entirety herein. Applicant respectfully requests that the Examiner specifically answer the substance of this traversal.

In the currently outstanding Office Action, the Examiner further points out that the AAPA in view of the Rasanen reference does not teach or suggest a wireless telephone server for informing the position of the portable terminal to the plurality of wireless communication gateway servers.

However, the Examiner alleges that the Pirila reference discloses this feature.

First, the Pirila reference does not even disclose wireless communication gateway servers, therefore, the Pirila reference clearly does not disclose informing a wireless communication

gateway server about the position of a portable terminal.

The Examiner cites column 7, lines 26- 35 of the Pirila reference in an attempt to provide support for the Examiner's allegation.

However, contrary to the Examiner's allegation, column 7, lines 26-35 only discloses sending location information to the mobile stations. "FIG. 6 shows a signaling flow diagram of the transfer of location information to a mobile station in a broadcast message." (Col. 7, lines 26-28). "[T]he base station BTS sends the location information further to a mobile station MS on a short message service SMS broadcast channel." (Col. 7, lines 34-36).

Moreover, even assuming arguendo that one of ordinary skill in the art would have been motivated to combine these references, the combination would not teach or suggest each and every element of the claimed invention.

As explained above, contrary to the Examiner's allegations, the Pirila reference does not teach or suggest a wireless telephony server for informing the position of the portable terminal to the plurality of wireless communication gateway servers.

While the Examiner cites col. 7, lines 26-35 of the Pirila reference, the Examiner's rejection fails to comply with 37 C.F.R. §1.104(c)(2) which requires that "the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

While the Examiner has cited column 7, lines 2635 of the Pirila reference, this portion of the Pirila reference discloses a mobile station MS, a base station BTS, a base station controller BSC, a cell broadcast center CBC, and a mobile location center MLC. The Examiner has not

indicated which of these structures are alleged by the Examiner to correspond to the claimed wireless telephone server.

To assist Applicants' understanding, Applicants hereby respectfully request that the Examiner comply with the requirements of MPEP 707.05 by explaining in detail the correspondence between the specific features recited by claims 1-3 and 8-9 and the particular portions of the Pirila reference.

Note that MPEP 707.05 states:

"During the examination of an application or reexamination of a patent, the examiner should cite appropriate prior art which is nearest to the subject matter defined in the claims. When such prior art is cited, its pertinence should be explained"

To further the prosecution of this application, however, Applicants have closely reviewed the Pirila reference to address the clear differences between the Pirila reference and the claims.

Claim 1 recites "a plurality of wireless communication gateway servers, . . . [that] comprises a buffer memory emulator which stores specification data representing a specification of the buffer memory and transmits the information from the information server to the portable terminal based on the specification data."

None of the base station BTS, a base station controller BSC, a cell broadcast center CBC, and a mobile location center MLC that are disclosed by the Pirila reference comprises a buffer memory emulator which stores specification data representing a specification of the buffer memory and transmits the information from the information server to the portable terminal based

on the specification data as recited by claim 1.

Therefore, since the Pirila does not teach or suggest a plurality of wireless communication gateway servers, the Pirila reference also does not teach or suggest wireless telephony server for informing the position of the portable terminal to the plurality of wireless communication gateway servers.

Therefore, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-3 and 8-9.

C. The Applicant's admitted prior art in view of the Rasanen reference and in further view of the Pirila reference and in yet further view of Chang et al. reference.

Regarding claims 5-6, and 11-12, the Examiner alleges that the Rasanen reference would have been combined with the AAPA and further that the Pirila reference would have been combined with the combination of the AAPA and the Rasanen reference and, then goes even further to allege that the Chang et al. reference would have been combined with the combination of the AAPA, the Rasanen reference and the Pirila reference to form the claimed invention.

As explained previously in the Amendment that was filed on January 22, 2004, Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different matters and problems.

As explained above, one of ordinary skill in the art who was concerned with congestion at an access point in a wireless communication gateway server as disclosed by the AAPA or who was concerned with the problem of implementing handoffs between base station cells when it is necessary to reduce the congestion of a base station cell as disclosed by the Rasanen reference would not have referred to the Pirila reference because the Pirila reference is concerned with the completely different and unrelated problem of allowing the user of a mobile station to determine the location of the mobile station.

In stark contrast to the AAPA, the Rasanen reference and the Pirila reference, the Chang et al. reference is directed to the completely different and unrelated problem of temporary Internet address assignment (col. 1, lines 47-67) and the use of specialized network protocols for packet-based wireless access techniques (col. 2, lines 1-19).

One of ordinary skill in the art who was concerned with congestion at an access point in a wireless communication gateway server as disclosed by the AAPA, handling congestion that occurs in a base station cell as disclosed by the Rasanen reference or who was concerned with the problem of allowing the user of a mobile station to determine the location of the mobile station as disclosed by the Pirila reference would not have referred to the Chang et al. reference because the Chang et al. reference is directed to the completely different and unrelated problem of temporary Internet address assignment and the use of specialized network protocols for packet-based wireless access techniques. Thus, the references would not have been combined, absent hindsight.

Further, as explained previously in the Amendment filed on January 22, 2004, not only

does the Chang et al. reference not remedy the deficiencies discussed above regarding claims 1 and 8, the Chang et al. reference does not teach or suggest the claimed network.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 5-6, and 11-12.

D. The Applicant's admitted prior art in view of the Rasanen reference and in further view of the Pirila reference and yet in further view of the Valentine et al. reference

Regarding claims 7 and 13, the Examiner alleges that the Rasanen reference would have been combined with the AAPA and further that the Valentine et al. reference would have been combined with the combination of the AAPA and the Rasanen reference to form the claimed invention.

As explained in the Amendment that was filed on January 22, 2004, Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Further, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, the Examiner does not even support the combination by identifying a reason for combining the references.

Rather, the Examiner merely alleges that it would have been obvious to modify the combination of reference based upon the teaching of the Valentine et al. reference "so that the satellite network can be used with the mobile wireless network" (emphasis added). Applicant

respectfully submits that the mere allegation that something can be used with something else does not provide any motivation for making such a modification.

Indeed, the M.P.E.P. specifically prohibits any obviousness rejection which is based merely upon the fact that the modification is possible.

**"FACT THAT REFERENCES CAN BE COMBINED OR MODIFIED
IS NOT SUFFICIENT TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS"**

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." (M.P.E.P. §2143.01, Emphasis Original)

Therefore, the Examiner's rejection is *prima facie* improper on its face.

Thus, the Examiner is respectfully requested to withdraw the rejection of claims 7 and 13.

E. The Remaining Rejections

Regarding the rejections of:

claims 14-16 and 24-26 as being unpatentable over the admitted prior art in view of the Rasanan reference, and further in view of the Manning, et al. reference;

claim 17 as being unpatentable over the admitted prior art in view of the Rasanan reference, further in view of the Manning, et al. reference, and in yet further in view of the Chang, et al. reference;

claim 18) as being unpatentable over the admitted prior art in view of the Rasanan reference, further in view of the Manning, et al. reference, and further in view of the Valentine, et

al. reference;

claims 19 and 21 as being unpatentable over the Rasanen reference, in view of the Ray, et al.

al. reference;

claim 20 as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further in view of Applicant's admitted prior art;

claim 22 as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further in view of the Chang, et al. reference; and

claim 23 as being unpatentable over the Rasanen reference, in view of the Ray, et al. reference, and further in view of the Valentine, et al. reference.

The Amendment that was filed on January 22, 2004 traversed all of these rejections and this Amendment incorporates that traversal herein in its entirety. As explained above, the Examiner has failed to answer the substance of these traversals.

Therefore, the Examiner is respectfully requested to withdraw these rejections.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-29, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the

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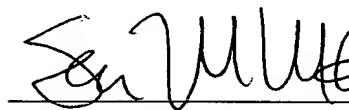
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Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 7/2/04

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